IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1564 OF 2007

Tukaram Rai ..Petitioner

V/s.

The Chief Food Inspector Cum Licensing Officer & ors ..Respondents

Mr.S.P.Kanuga for the petitioner
Ms.V.S.Mhaispurkar, AGP for the respondent No.3

CORAM : A.S.OKA, J.

DATE : 10TH APRIL,2007

P.C.

1. Rule. The learned AGP waives service for the respondent No.2 and 3.

2. The challenge in the Writ Petition, inter alia, is to the order dated 6th February, 2007, passed in the appeal preferred by the petitioner. The learned AGP appearing for the respondent No.3 states that the appeal preferred by the petitioner was maintainable under Sub-Rule 7 of Rule 5 of the Maharashtra Prevention of Food Adulteration Rules, 1962. She submitted that the same was preferred

after the expiry of statutory period of limitation and therefore, the appellate authority was justified in dismissing the appeal.

3. Perusal of the order dated 6th February, 2007 passed by the appellate authority shows that the appeal is not dismissed on the ground of bar of limitation. Moreover, the appeal has been decided without giving an opportunity of being heard to the petitioner. As the appeal has been decided without giving an opportunity of being heard to the petitioner, only on this count, the impugned order deserves to be quashed and set aside. Issue of limitation will have to be kept open.

4. Hence, Writ Petition is disposed of by passing the following order.

O R D E R

a) The impugned order dated 6th February, 2007 is quashed and set aside. The appeal preferred by the petitioner on 23rd January, 2007 is restored to the file.

b) The appellate authority will pass an appropriate order on the said appeal after giving an opportunity to the appellant of being heard.

c) All issues on merits in the Appeal are expressly kept open.

d) Writ Petition is partly allowed in above terms with no order as to costs.

Parties to act on an authenticated copy of this order.

(**A.S.OKA, J.**)